

Summary of Proposed Ordinance Relating to Zoning, Site Alteration and Critical Areas

This summary applies to the proposed Critical Areas Ordinance dated December 10, 2002, and fulfills the state Growth Management Act and King County Code 20.18.100 requirement for a “plain language” summary.

Some of these changes were included in proposed ordinances that were transmitted to the King County Council but not adopted. These items are noted using the following abbreviations:

SAO: The proposed amendments to the Sensitive Areas Ordinance, King County Code (K.C.C.) chapter 21A.24 pending at council (Proposed Ordinance 1999-0353).

SALT: The proposed Site Alteration Code pending at council (Proposed Ordinance 2000-0525). This is a proposed update to the Clearing and Grading Code.

Amendments to K.C.C. chapter 21A.24, “Critical Areas”

Section 1 - Purpose. (*K.C.C. 21A.24.010*) This chapter has been revised to be consistent with the state Growth Management Act. Several terms used throughout this ordinance are replaced with terms consistent with the Growth Management Act: the terms “sensitive areas” and “environmentally sensitive areas” are replaced with “critical areas,” and the term “streams” is replaced with “aquatic areas.” Other principal changes to this section include:

- this chapter establishes alteration standards (in addition to development standards) for the purpose of protecting public health and safety (in addition to critical areas);
- this chapter protects fish and wildlife and their habitats, and maintains and promotes countywide native biodiversity; and
- fish and wildlife and their habitat are protected as part of the public trust.

Section 2 - Applicability. (*K.C.C. 21A.24.020*) The changes to this section are minor technical changes.

Section 3 - Appeals. (*K.C.C. 21A.24.030*) This change cross-references the permit process chapter, K.C.C. 20.20. [SAO 81]

Section 4 - Critical areas rules. (*K.C.C. 21A.24.040*) Changed to authorize departments within King County to adopt administrative rules and regulations that establish educational and training qualifications necessary to conduct allowed alterations.

Section 5 - Interpretation of exemptions and exception table. (*K.C.C. 21A.24.050*) Exemptions have been moved to a new table in section 6. This section tells how to interpret the section 6 table. The table lists which activities are exempt from critical areas requirements or excepted from critical areas permit requirements, and the notes to the table lists specific conditions that apply to that activity. [SAO 82]

Section 6 - Exemptions and exceptions. (*new*) This section presents a table and related notes that describe the exemptions and exceptions to critical areas regulations for listed activities.

This proposed ordinance combines these into a new section, “exemptions and exceptions” and makes amendments to some.

Section 7 - Agricultural activities. (*new*) The following critical areas requirements apply to agricultural activities:

- Agricultural activities conducted on land located in the agricultural production district (APD), agricultural (A) zoned land outside the APD, farmland preservation program (FPP) land outside the APD and any other properties with existing and ongoing agriculture uses outside the APD are not subject to aquatic areas provisions if:
 - a water quality filter strip is installed and maintained between any field used for crops or crop rotations and the aquatic area. The composition of the filter strip shall be specified by administrative rule, including slope, soil, horticultural practices and the receiving aquatic area. The rule will also provide for installation and maintenance;
 - winter cover crops are used on all fields located within the flood plain or adjacent to a waterway unless constrained by horticultural requirements such as crop rotation cycles, harvesting root crops, spring planting needs, timing of fall harvest or fields too wet for mechanical devices. All constraints must be approved by the NRCS/Conservation District;
- Pesticides may not be used in the filter strip unless the King County Noxious Weed Board agrees that there is no other alternative for removal of noxious weeds;
- Non-residential farm related structures may be expanded or constructed within an aquatic area buffer if: (1) there is no other practical alternative on the property, (2) the structure is in or adjacent to the “footprint” that includes existing farm structures and the unfarmed areas between and adjacent to them and the footprint is not expanded toward the water, (3) the structure is not detached from the existing footprint unless the proposed location is higher in elevation and is no closer to the water than the existing footprint; and (4) new developments meet all other permitting requirements including flood storage requirements.

Section 8 - K.C.C. 21A.24.060 is repealed.

Section 9 - Reasonable use exception. (*K.C.C. 21A.24.070*) The existing section includes two exceptions: (1) reasonable use and (2) public agency and utility (“PAUE”). This proposed section removes PAUE, which is relocated in the director's modification section (*K.C.C. 21A.24.075*). Procedural requirements (decision-making, public notice and appeals) for reasonable use exceptions are also included. [SAO 84]

Section 10 - Director's modification of critical area requirements. (*K.C.C. 21A.24.075*) In the existing code, this section allows the director to waive critical area requirements for “minor development” on urban lots if several requirements are met. This process is expanded to provide flexibility in the application of critical area requirements in defined circumstances. These proposed changes are described below:

- **General** - the section is reorganized, made more concise and made consistent with the Permit Process Code, K.C.C. chapter 20.20. One process and set of standards for modifying critical area requirements is extended to both public and private projects through this section. Standards which apply to public utilities are extended to private utilities.
- **Subsection A Threshold standards for obtaining modification** - sets forth general standards which must be met before any modification may be granted. The director may

modify critical area requirements if there is no practical alternative to the proposed development or alteration and impacts to critical areas and buffers are minimized. A minor habitat evaluation is required if the development or alteration is proposed in an aquatic area or its buffer. Impacts to critical areas must be mitigated to the maximum extent practical, and adverse impacts to critical areas, buffers, or neighboring properties must be minimized. Finally, the modification must not result in an increase the base flood elevation, a permanent decrease in slope stability, a measurable decrease in water quality, or a measurable permanent increase in erosion potential.

- **Subsection B Circumstances where critical area regulations can be modified** - sets forth all circumstances eligible for modification of critical areas regulations. For some of these circumstances, there are additional requirements listed which must be met in order for the modification to be granted. The circumstances include:
 - **Steep slope areas** - this is a new provision. Steep slope hazard area requirements may be modified for steep slopes that are 2,500 square feet or less.
 - **Small lots next to steep slopes** - those lots created before the sensitive areas code was originally adopted and under 15,000 square feet, critical area requirements may be modified to build a house (and access) up to 3,000 square feet, subject to special requirements.
 - **Small lots next to category IV wetlands or type N or O aquatic areas** - this is a new provision. Critical area requirements may be modified to build a house (and access) up to 3,000 square feet, subject to special requirements.
 - **Lots on lakes where there is a category I, II, or III wetland along the shoreline** - this is a new provision. Critical area requirements may be modified to build a house (and access) under circumstances similar to those applicable to small lots if 75% of the existing shoreline has been built up and there is no functional buffer or wetland vegetation, and no unique feature of the wetland will be at risk. Limitations are included for special features such as salmonid protection, where the wetland along the shoreline where the house is proposed is used as a salmonid spawning area, or forested wetland classes.
 - **Aquatic areas and wetlands that are not used as salmonid rearing or spawning areas as regional flow control facilities** - in the existing code, this provision is contained in K.C.C. 21A.24.070, 21A.24.330 and 21A.24.370. The principal changes include:
 - reorganizing the provisions so that the former PAUE provisions pertaining to regional flow control facilities are now moved to this director's modification section;
 - removing redundant flow control facility provisions from the permitted alteration sections for wetlands and streams;
 - restricting regional flow control facilities to aquatic areas and wetlands not used for salmonid spawning/rearing;
NOTE: this provision does not affect the use of isolated wetlands for flow control facilities pursuant to K.C.C. 21A.24.330—the wetland development standards and alterations section; and
 - removing the reference to the Final Report of the Puget Sound Wetlands and Stormwater Management Research Program;
 - referencing an administrative rule which will define the standards for such a facility.
 - **Public Agency and Public/Private Utility Projects** - This provision, currently in K.C.C. section 21A.24.070 (the PAUE), is moved to this director's

modification section with no change except as noted in the prior subsection's summary for flow control facilities which are dealt with separately;

- **Locating or daylighting a stream in a wetland or stream buffer** - this is a new provision. The director may modify requirements pertaining to aquatic areas and their buffers, when locating or daylighting a stream for habitat enhancement or restoration purposes and the work is not associated with another development proposal or alteration
- **Subsection C Director's Additional Authority** - The director may modify zoning and road standards (the latter with approval by the county road engineer) as needed to meet the protective criteria required for a modification.
- **Subsections D–G Process** - the process for decision-making and review is clarified, consistent with other decision-making processes in this and other codes. An applicant seeking a director's modification must submit a critical area report, including a minor habitat evaluation. A new feature includes the requirements that all decisions must be compiled and made readily available for public inspection.

[SAO 85]

Section 11 - Major habitat evaluation option. (*new*) This section describes when an applicant would submit a major habitat evaluation and how the department will determine whether to approve or deny the proposed development or alteration. An applicant may submit a major habitat evaluation as part of the appropriate permit or approval process for any development proposal or alteration on a site containing an aquatic area, wetlands or fish and wildlife habitat conservation area or their buffers if (1) the applicant is unable, or chooses not, to comply with the alteration requirements for the critical area, or (2) the proposed alteration is not allowed in the critical area. The department will determine whether the site can still meet the habitat objectives, including ensuring that salmonid conservation can be achieved. The department may impose conservation measures, and the applicant must fully mitigate for any predicted adverse impacts of the proposed alteration. Submittal requirements for major habitat evaluations will be spelled out in administrative rules.

Section 12 - Critical area maps and inventories. (*K.C.C. 21A.24.080*) The changes are technical: to include references to the county geographical information system ("GIS") and other maps maintained by the state, federal agencies and tribes, and to clarify that these maps and inventories do not identify all critical areas in the county. Some locations of fish and wildlife habitat conservation areas, wildlife priority habitat or wildlife priority areas are mapped or recorded by state and other government agencies. The county has adopted by public rule maps locating a number of channel migration zones; an applicant may submit special studies to address any apparent discrepancies involving these maps. All aspects of the county's final decision can be challenged by an applicant and others with standing. [SAO 86]

Section 13 - Disclosure by applicant. (*K.C.C. 21A.24.090*) Most changes are technical, with one substantive change: the requirement that an applicant disclose mapped, visible or identified critical areas within 100 feet of the property is increased to within 300 feet of the property.

Section 14 - Critical area review. (*K.C.C. 21A.24.100*) If a development proposal does not involve any site disturbance, clearing, or grading and only requires a permit or approval under K.C.C. chapter 16.04 (building code) or 17.04 (fire code), critical area review is not required unless the development proposal is located within a landslide hazard area, seismic hazard area, or coal mine hazard area and the proposed development will cause additional loads on

the foundation. Critical area review shall be limited to consideration of the development proposal and the hazard area in which it is located. The remaining changes to this section are technical.

Section 15 - Critical area report requirement. (*K.C.C. 21A.24.110*) In the existing code, this section refers to "special study" requirements; the name is changed to "critical area report." In addition, requirements throughout the existing code pertaining to special studies are gathered together and placed in this section. Considerable technical changes are made. Significant substantive changes include:

- **Waiver criteria** - includes criteria which must be met for the department to waive the report. A new provision is added allowing critical area report waiver when adequate information already exists.
- **Mandatory reports** - lists those situations where a critical area report is mandatory (and cannot be waived). There are fewer circumstances where a critical area report is mandatory than in existing code. [SAO 90]

Section 16 - Contents of critical area report. (*K.C.C. 21A.24.120*) This section is clarified to reflect that a critical area report may take many forms depending upon the nature of the project. This section includes a list of what *may* be required—giving the department necessary authority to request information when it needs it. The list modifies the existing code reflect the type of information which is relevant to critical area review. Potential chapters that the county may require in a critical area report include:

- a wetland functional assessment addressing the functions as prescribed in the state Department of Ecology's "Methods for Assessing Wetland Functions, Vol. I",
- a habitat management plan addressing protection of a priority habitat or priority area designated as a fish and wildlife habitat conservation area,
- a minor habitat evaluation addressing existing habitat conditions, impacts to existing habitat and mitigation for the proposed action. The minor habitat evaluation shall address fish and wildlife species dependent upon aquatic area, wetlands and fish and wildlife conservation areas including, but not limited to, species designated for protection in the King County Comprehensive Plan.
- a major habitat evaluation that in addition to addressing the subjects in a minor habitat evaluation, analyzes impacts that will limit the long-term ability of the site to provide functions important for the conservation of endangered species and salmonids. The major habitat evaluation shall assess whether the proposal will preclude any future recovery opportunities on the site.

A new provision authorizes submittal of reports in stages in order to more efficiently evaluate the proposal or to more accurately determine what information must be contained in the critical area report. An existing standard which authorizes the department to limit the critical area report to only the affected part of the site is retained.

Additional sections (1) move a process for third-party independent review of the assessment report from Section 28; (2) set reporting requirements for emergency actions, and (3) authorize the department to specify the form and content of critical area reports in administrative rules. [SAO 91]

Section 17 - Notification of critical area report requirements. (*new*) This section promotes efficient and expeditious critical areas review. The section also prescribes the result of submitting insufficient or inaccurate information. [SAO 91]

Section 18 - Recodifies K.C.C. 21A.24.130 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 2].

Section 19 - Recodifies K.C.C. 21A.24.140 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 6].

Section 20 - K.C.C. 21A.24.150 is repealed.

Section 21 - Critical area markers and signs. (*K.C.C. 21A.24.160*) Technical changes.

Section 22 - Notice on title. (*K.C.C. 21A.24.170*) Adds a requirement that notice on title is required for property upon which mitigation has been established. Notice on title is not required for public facilities or development proposals not requiring critical area review because they do not involve site disturbance or clearing or grading (under K.C.C. 21A.24.100C). The remaining changes are technical.

Section 23 - Critical area tracts and designations on site plans. (*K.C.C. 21A.24.180*) Removes a requirement that site plans be attached to the notice on title. The remaining changes are technical.

Section 24 - Recodifies K.C.C. 21A.24.190 into K.C.C. chapter 21A.06.

Section 25 - Building setbacks. (*K.C.C. 21A.24.200*) The changes to this section are technical.

Section 26 - Coal mine hazard areas - classifications. (*new*) The content of this section is moved from the existing definition of coal mine hazard area (K.C.C. 21A.06.200). The coal mine hazard area classifications are removed from the definition and placed among the standards sections. [SAO 98]

Section 27 - Coal mine hazard areas - development standards and alterations. (*K.C.C. 21A.24.210*) The coal mine hazard assessment report requirements are removed from this section and placed in the critical area report requirement section (see section 16). A process for third-party independent review of the assessment report is also moved to section 16 and any requirements that pertain to mitigation are moved to the newly compiled mitigation sections (K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring]). Language was also revised to match the drafting convention in chapter 21A.24 and this proposed ordinance for hazard area development standards and permitted alterations but otherwise unchanged. [SAO 98]

Section 28 - Erosion hazard areas - development standards and alterations. (*K.C.C. 21A.24.220*) The changes to this section are largely technical: including standard language contained in all similar sections, clarifying that permitted alterations are those alterations allowed with an appropriate permit or approval, the placement of mitigation requirements in new mitigation sections, the removal of unnecessary language and the clarification of existing standards, the removal of clearing and grading permit requirements to K.C.C. 21A.xx [New Chapter: Permits, Emergency Actions, Permit Exceptions], and the removal of temporary erosion control standards where they are already contained in the Surface Water Design Manual. Additional changes include standardizing the clearing window with other County clearing limits, including reference to noxious weed removal provisions for those times when such removal is not exempt and to forest practices. The director is authorized to amend the

forest practice standards by public rule, should the state standard change in the future. Finally, one change clarifies that the clearing limits specified apply only to the portion of the site that is within the erosion hazard area. [SAO 100]

Section 29 - Flood hazard areas - components. (*K.C.C. 21A.24.230*) The change to this section includes specifically designating channel migration zones as a component of a flood hazard area. The remaining changes are technical. [SAO 101]

Section 30 - Zero-rise flood fringe - development standards and alterations. (*K.C.C. 21A.24.240*) Many changes are technical: updating the term from “flood fringe” to “zero-rise flood fringe,” removing unnecessary or redundant language and reorganizing the section to be consistent with other critical area sections. In addition, adding requirements. [SAO 102]

Section 31 - Zero-rise floodway - development standards and alterations. (*K.C.C. 21A.24.250*) Many changes are technical: reorganizing the section to be consistent with other similar sections and replacing a cross-reference with a list of requirements. Other technical changes include removing uses “which are not permitted” from the section—in the revised section, only those activities specifically listed are allowed as permitted alterations. In addition, adding requirements. [SAO 103]

Section 32 - FEMA floodway - development standards and alterations. (*K.C.C. 21A.24.260*) The technical changes here are similar to the other flood hazard area sections, such as reorganizing and listing alterations which are permitted—rather than those which are not permitted, consistent with all other similar permitted alteration sections. In addition, substantial improvements of structures are not allowed and permitted uses are expanded to include road expansions and vegetation removal. [SAO 104]

Section 33 - Flood hazard areas - certification by engineer or surveyor. (*K.C.C. 21A.24.270*) Revised to require a FEMA Elevation Certificate.

Section 34 - Severe channel migration hazard area - development proposals or alterations allowed not requiring compensatory mitigation or minor habitat evaluation. (*K.C.C. 21A.24.275*) The existing code referred to channel migration areas as “channel relocation and stream meander areas” and prohibited all structures until administrative rules were developed detailing what structures would be permitted and where they would be allowed. Rather than put the permitted alterations in rules, they are put into three code sections: sections 35, 36 and 37.

Development proposals or alterations within a severe channel migration zone must comply with the aquatic habitat buffer standards in this chapter. The following may not require compensatory mitigation or minor habitat evaluation:

- **Buffer of an aquatic area that includes a severe channel migration hazard area:**
 - **maintenance or repair of an existing, lawfully established bank stabilization structure, not a building that inhibits channel migration** - if the maintenance or repair does not increase the height of the structure, does not increase the length of the affected stream edge, does not expand the footprint of the facility waterward or into any landward aquatic habitat, uses bioengineering as much as practicable, and restores the site with appropriate native vegetation;

- new bank stabilization projects to inhibit channel migration through the use of vegetation;
- maintenance or repair of existing flood protection facilities;
- maintenance, repair, structural modification or addition existing primary structures - if the footprint is not increased or expanded closer to the aquatic area, nor is the activity considered a substantial improvement, unless the structure is an identified historic resource or the improvement is conducted to comply with regulations pertaining to health, sanitation, building or fire safety;
- maintenance, repair, structural modification or addition existing accessory structures - if they do not increase the footprint by more than 1,000 square feet or expand the footprint closer to the aquatic area, unless the applicant shows this is the lowest-impact alternative;
- maintenance or repair of:
 - existing roads;
 - existing on-site sewage disposal facilities;
 - existing water supply wells and increases to the depth of existing water supply wells when necessary to capture water supplies;
- removal of human infrastructure for the purpose of habitat recovery;
- installation of new utility lines or facilities, including water pipelines, in an existing roadway or railroad prism, subject to specific criteria.
- **Alterations to the buffer of an aquatic area that includes a severe channel migration hazard area, if beyond the minimum aquatic area buffer width for an aquatic area without a severe channel migration hazard area:**
 - clearing of 1,000 square feet or up to a cumulative 35 percent of the lot; and
 - grading of up to 50 cubic yards on parcels less than five acres in size if it does not exceed the threshold requiring State Environmental Policy Act (SEPA) review.
- **Alterations to an aquatic area that includes a severe channel migration hazard area:**
 - replacement of lawfully established existing culverts - if they are made fish passable. The site must be restored with appropriate native vegetation;
 - stream enhancement not associated with any other proposed alteration - if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.
 - minor stream restoration project for fish habitat enhancement - if sponsored by a public agency, not associated with mitigation of a specific development proposal, and subject to specific limitations and requirements.

[SAO 106]

Section 35 - Moderate channel migration hazard area - development proposals and alterations allowed not requiring compensatory mitigation or minor habitat evaluation. (*new*) Similar to severe channel migration areas (section 34) except that:

- new primary residences are allowed on lots established on or before February 16, 1995, when (1) located as far as practical from the migrating channel, and (2) this is the only feasible on-site option; and
- property may be subdivided if (1) all lots contain at least 2,500 square feet of buildable land outside of the channel migration areas, (2) access to all lots will not impinge upon the channel migration areas, and (3) all infrastructure is located outside of the channel migration areas with the possible exception of septic systems.

Section 36 - Channel migration zones - alterations allowed requiring compensatory mitigation and a minor habitat evaluation. (*new*) The following alterations are allowed in severe or moderate channel migration hazard areas if a critical area report including a minor habitat evaluation is conducted in accordance with K.C.C. 21A.21.120 and compensatory mitigation is provided under K.C.C. 21A.-- [New Chapter: Mitigation and Monitoring]:

- New bank stabilization or other actions to prevent erosion are only allowed in channel migration zones for public roadways, flood protection facilities, sole access routes existing before February 16, 1995. In moderate areas, bank stabilization is also allowed for new residences if they are located between existing residences not more than 600 feet apart, and if they located are no closer to the aquatic area than the existing residence; and
- The stabilization must follow King County's Guidelines for Bank Stabilization Projects (June 1993), and any updates, and use bioengineering alternatives whenever possible. The department may approve alternative methods if the applicant demonstrates they provide equivalent stabilization and environmental function.

Section 37 - Landslide hazard areas - development standards and alterations. (*K.C.C. 21A.24.280*) The changes to this section include some technical changes. In addition, requirements which pertain to landslide hazard areas are moved from the steep slope hazard area requirements to this section, eliminating the need for cross-referencing. These "moved" provisions account for most of the new language in this section. Also, vegetation removal provisions are moved to the "permitted alteration" provisions within the section. The existing code contains a provision which allows buffer reductions without a critical area report for small lots processed under existing K.C.C. 21A.24.075. However, the latter section, as it presently exists, does not apply to steep slope or landslide hazard areas. Changes include:

- Establishment of buffer/setback - the existing code requires a buffer of 50 feet but allows the buffer to be expanded as needed to protect the public. The proposed buffer requirement establishes that an appropriate buffer is established based on the scientific study and analysis contained in the critical area report as approved by the department. It also gives the department additional flexibility in establishing a combination of buffer and building setbacks. Finally, the proposed code allows the applicant to choose whether to do the geotechnical study necessary to determine the extent of the landslide hazard. If the applicant chooses not to do the study, the buffer and building setback are prescribed according to the maximum potential risks (50 foot buffer with an increase to 100 feet in specific circumstances).
- Maintenance of structures - The proposed ordinance changes maintenance of these structures into a permitted alteration—an alteration requiring a permit, in certain circumstances. The maintenance is allowed if there is no expansion of the structure and there is little risk of death or injury or, the risk of landslides is low.
- Surface water conveyance - allowed as long as it will have less impact than if the surface water were to be discharged naturally and if adverse impacts to salmonids are minimized.
- Public and private utilities - Utilities and maintenance of utilities and utility corridors are added as permitted alterations, in specific circumstances.
- Agricultural crop production - Existing crop production continues to be allowed—but as a permitted alteration, in specific circumstances. No expansion in the landslide hazard area is allowed.
- Site stabilization - extends authority to stabilize sites when roadways, etc. are threatened.
- Exploratory drilling - allowed where required for critical area reports.

- Forest practices - allowed under an approved clearing and grading permit and in conformance with state regulations, and only on slopes less than 60 percent if the proposed activities:
 - are not within 200 feet upslope from an aquatic area or wetland;
 - will not increase the risk of landslide or erosion; and
 - the impact of any failure, if it did occur, is fully contained on the site and does not affect any aquatic area or wetland.

[SAO 107; SALT 112]

Section 38 - Seismic hazard areas - development standards and alterations. (*K.C.C. 21A.24.290*) Technical changes to this section include substituting standard language contained in other similar provisions such as clarification that "permitted alterations" are allowed in accordance with an appropriate permit or approval, moving mitigation requirements to K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring] and moving critical area report requirements to K.C.C. 21A.24.110.

- New Seismic Standard - This change sets the standard for seismic hazard areas equivalent to the foundation standard in the building code, minus the building code's exceptions. This change places no restrictions on which structures may be located in seismic hazard areas—as long as the structures have proper foundations for the type of seismic hazard expected, as shown in the critical area report.
- New Exceptions - two new exceptions are included: fences and small additions (less than 250 square feet) to single-story residences.

[SAO 108]

Section 39 - Volcanic hazard areas - development standards and alterations. (*K.C.C. 21A.24.300*) These are technical changes such as the inclusion of standard language which, among other things, clarifies that "permitted alterations" are alterations allowed in accordance with appropriate permits or approvals. Also, section 22, Notice on Title, is cross-referenced, and the specific notice is removed from this section. Required modeling and mapping is not yet complete; when complete, this section will be updated. [SAO 109]

Section 40 - Steep slope hazard areas - development standards and alterations. (*K.C.C. 21A.24.310*) There are many changes which are technical: including standard language which, among other things, clarifies that "permitted alterations" are alterations allowed in accordance with appropriate permits or approvals, moving critical area report requirements to K.C.C. 21A.24.110, moving vegetation removal provisions to the permitted alteration subsection. K.C.C. 21A.24.075 contains a new subsection which allows modifications for small steep slope hazard areas. Changes include:

- Establishment of buffer/setback - similar to landslide hazard areas, the existing code requires a buffer of 50 feet but allows the buffer to be expanded as needed to protect the public. The proposed buffer requirement establishes that an appropriate buffer is established based on the scientific study and analysis contained in the critical area report as approved by the department. It also gives the department additional flexibility in establishing a combination of buffer and building setbacks. Finally, the proposed code allows the applicant to choose whether to do the geotechnical study necessary to determine the extent of the steep slope hazard. If the applicant chooses not to do the study, the buffer and building setback are prescribed according to the maximum potential risks (50 foot buffer)
- Surface water conveyance - allowed as long as it will have less impact than if the surface water were to be discharged naturally and if adverse impacts to salmonids are minimized.

- Public and private utilities - Utilities and maintenance of utilities and utility corridors are added as permitted alterations.
- Agricultural crop production - Any existing crop production on steep slopes is allowed as a permitted alteration. No expansion is allowed.
- Site stabilization - extends authority to stabilize sites when roadways are threatened.
- Exploratory drilling - allowed where required for critical area reports.
- Forest practices - allowed under an approved clearing and grading permit and in conformance with state regulations, and only on slopes less than 60 percent if the proposed activities:
 - are not within 200 feet upslope from or within an aquatic area or wetland;
 - will not increase the risk of landslide or erosion; and
 - the impact of any failure, if it did occur, is fully contained on the site and does not affect any aquatic area or wetland.

[SAO 110; SALT 113]

Section 41 - Wetlands: categories. (*new*) The proposed ordinance adopts the state’s wetlands rating system for Western Washington. Wetland categories are moved to the critical areas chapter (21A.24) from the definitions chapter (21A.06). In the proposed code, wetlands are placed in one of four categories as follows:

Category I wetlands include:

- Wetlands that have documented habitat for, or occurrence of, a federal or state listed endangered or threatened fish, animal or plant species;
- Wetlands with high quality wetland vegetation classes that qualify for inclusion in the Natural Heritage Information System;
- Wetlands that are documented as or meet the criteria for regionally significant waterfowl or shorebird concentration areas;
- Wetlands with irreplaceable ecological functions, including bogs, fens, estuarine wetlands, or forested wetlands; or
- Wetlands of exceptional local significance including, but not limited to, rarity, groundwater recharge areas, significant habitats, unique educational sites or other specific functions or values within a watershed or other regional boundary. “Wetlands of exceptional local significance” specifically includes:
 - those identified as such in approved King County basin plans or other watershed based plans;
 - those that have 40 to 60 percent permanent open water in dispersed patches with two or more wetland vegetation classes;
 - those at least 10 acres in size that have three or more wetland vegetation classes, one of which is submerged aquatic bed in permanent open water;
 - those that are part of a wildlife corridor, wildlife network or wetland complex;
 - Individual wetlands of exceptional local significance identified by administrative rule.

Category II wetlands meet no category I criteria and include:

- Wetlands that have documented habitat for, or occurrence of, a federal or state listed fish, animal or plant species other than endangered or threatened species;
- Wetlands located within the areas designated by the comprehensive plan as rural areas or natural resource lands that have documented habitat for candidate species identified by the Washington Department of Ecology;

- Wetlands that contain priority species or habitats recognized by state agencies or King County;
- Wetlands with significant functions that may not be adequately replicated through creation or restoration;
- Wetlands with significant habitat value of 22 or more points from the Washington State Wetlands Rating System for Western Washington; or
- Wetlands of local significance that do not qualify as category I wetlands. “Wetlands of local significance” specifically includes:
 - Wetlands identified in approved King County basin plans or other watershed based plans as locally significant resource area wetlands;
 - Individual wetlands of local significance identified by administrative rule.

Category III wetlands:

- Category III wetlands satisfy no category I, II or IV criteria and include wetlands with a habitat value of 21 points or less from the Washington State Wetlands Rating System for Western Washington.

Category IV wetlands meet no category I, II or III criteria and include:

- Isolated wetlands that are less than one acre and comprised of only one vegetation class that is dominated by greater than 80 percent cover consisting of soft rush, hard hack or cattail; and
- Isolated wetlands that are less than two acres with one wetland vegetation class and greater than 90 percent of cover in any combination of non-native plant species.

This section also includes the following requirements:

- Connected wetlands - Wetlands that are located outside of the mapped 100-year floodplain and that are hydrologically connected to each other and have connected buffers will be considered as one wetland for wetland categorization purposes.
- Illegal modifications - Wetland rating categories shall not recognize illegal modifications.
- Consistency with state rating system - The wetland categories of this section may be modified by administrative rule to be consistent with modifications adopted by the Department of Ecology to the Washington State Wetland Rating System for Western Washington.

Section 42 - Wetlands - buffers and buffer width averaging. (*K.C.C. 21A.24.320*) Minimum buffers are generally increased, and are applied according to the new wetland categories in section 41.

- Minimum buffers - This section establishes the following minimum buffers (measured from the wetland edge):
 - Category I wetland - 300-foot buffer;
 - Category II wetland - 200-foot buffer;
 - Category III wetland - 100-foot buffer;
 - Category IV wetland - 50-foot buffer;
 - Altered wetlands - the buffer for a wetland created, restored or enhanced shall be the same as the buffer required for the category of the created, restored or enhanced wetland;
 - Steep slope hazard areas - if the wetland buffer includes a steep slope hazard area, the wetland buffer width shall be the greater of either the buffer in this section or 25 feet beyond the top of the steep slope hazard area; and

- Wetlands associated with aquatic areas - the buffer of any associated wetland shall be the width of the applicable aquatic area water type or wetland category, whichever is wider.
- Wetland complex - The buffer of a wetland complex of five or more wetlands shall be determined through a critical areas report.
- Buffer width averaging - The proposed code requires that the applicant submit a critical area report containing a wetland functional analysis by a wetland scientist, which shows that the averaging produces benefits and no adverse impacts. Criteria are added to protect salmonid habitat, require natural resource protections, ensure the narrowest buffers will not reduce the buffer's overall function, require contiguous buffer areas, ensure adequate building setbacks, and set fencing and signage requirements.
- Increased buffer widths - the department may adopt administrative rules to increase buffer widths when necessary to protect the wetland from hazardous substances, landslide, erosion or steep slope hazards and adverse impacts from trail, road or utility corridors and groundwater discharge and to protect critical drainage areas, fish and wildlife habitat and groundwater recharge.
- Buffer reduction - a new provision is added which allows buffer reductions when a roadway transects a buffer, rendering the portion of the buffer on the side of the road farthest from the critical area nonfunctional.

[SAO 112]

Section 43 - Wetlands - development standards and alterations. (*K.C.C. 21A.24.330*)

Technical changes include incorporating standard language, eliminating redundant introductory language which sets forth mitigation requirements (those requirements are moved to the new mitigation chapter), moving critical area report requirements to K.C.C. 21A.24.110 and eliminating provisions which do not constitute "permitted alterations." A new requirement is added that applies to the portions of wetlands or their buffers that are located within an aquatic area or buffer; in the case of any conflict between wetland and aquatic area requirements, the requirements that provide the most protection to wetlands and their buffers shall apply. Changes include:

- Indigenous vegetation - the requirement for plants or wildlife introduced into wetlands or buffers is changed to require species indigenous to "the Puget Sound lowland," instead of "King County."
- Flood hazard notification: this notification requirement is removed;
- Utility corridors: most changes are to clarify existing provisions. In addition, the requirement that administrative rules created to set requirements for installation, replacement of vegetation and maintenance is eliminated. In its place are requirements addressing location, vegetation removal and corridor maintenance. Requirements to limit the utility corridor's width to the minimum possible, its alignment to avoid significant trees, its placement to the outer 1/3 of the buffer (and other designated places) to minimize maintenance impacts (including impacts from maintenance roads) are also included.
- Sewer/water corridors: the buffer location in which the corridor may be placed is expanded to the outer 1/3 of the buffer. A mitigation provision is eliminated that is now covered in the new mitigation chapter.
- Surface water management facilities: provisions pertaining to regional retention/detention facilities are moved to the director's modification provision in K.C.C. 21A.24.075. Surface water conveyance in the buffer is allowed, in certain circumstances. Provisions are added to protect bogs and fens and salmonid habitat. Conveyance and discharge are

allowed in the buffer as long as there will be less impact than if the surface water were discharged naturally.

- Lakeside docks: this change clarifies that docks in wetlands occurring along shorelines are permitted alterations, in certain circumstances. In addition, existing standards are clarified, and a new standard is included to protect salmonid habitat.
- Isolated wetlands: All isolated wetland permitted alterations were combined into a single section, and all the mitigation provisions were moved to the mitigation sections.
- Agricultural buildings: A residence is no longer allowed within the wetland buffer of a grazed wet meadow. In addition, language is added to clarify that this alteration will be permitted in the wetland buffer only if they cannot be located outside the buffer.
- Vegetation removal: a change includes the elimination of an alteration allowing the removal of vegetation around a tree equal to the area of the tree's canopy at the time of planting. In addition, new alterations are permitted: (1) removal of noxious weeds which is not otherwise exempt from critical areas regulation, (2) removal of other vegetation, (3) vegetation removal for surveying purposes and (4) hazard tree removal.
- Wetland crossings: permitted crossings are expanded to include wetland buffer and underground utility crossings. Additional criteria applicable to all crossings include that crossings are minimized and serve multiple purposes when possible, that crossings are located where they will with least impact (usually the shortest distance across the wetland) and where they will not be over salmonid rearing areas (unless necessary) and that crossings are allowed only when no feasible alternative location with less impact is available. Special criteria for underground utility crossings require that salmonid rearing areas will not be altered and that trench dams are placed to avoid draining the wetland.
- Non-mitigation enhancement and restoration: This subsection is clarified to specify that it applies only to projects which are not mitigation or preempted under state law encompassing fisheries enhancement projects, and it cross-references restoration standards contained in K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring].
- Manure Storage: manure storage is a new alteration which may be permitted in grazed wet meadows and buffers, in certain circumstances.
- Exploratory drilling: exploratory drilling is a new alteration permitted in wetlands and buffers only when a critical area report is needed.
- Bogs and fens: no alterations are permitted in wetlands containing bogs and fens except vegetation removal, non-mitigatory enhancement and restoration and exploratory drilling for critical area reports.
- Application of herbicides, pesticides or other hazardous substances, as approved by the department.

[SAO 113]

Section 44 - Recodifies K.C.C. 21A.24. 340 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 11].

Section 45 - Recodifies K.C.C. 21A.24. 345 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 12].

Section 46 - Ordinance 10870, Section 482, and K.C.C. 21A.24.350 are repealed.

Section 47 - Aquatic areas - water types. (*new*) As with wetland categories, stream types have both been moved (out of the definitions chapter and into this chapter) and updated. The proposed code classifies aquatic areas into one of four water types:

- Type S waters - aquatic areas inventoried as "shorelines of the state" under King County's Shoreline Master Program, K.C.C. Title 25, in accordance with 90.58 RCW, including segments of streams where the mean annual flow is more than 20 cubic feet per second, marine shorelines and lakes 20 acres in size or greater.
- Type F waters - all segments of aquatic areas that are not type S waters and that contain fish or fish habitat. These include waters diverted for use by federal, state or tribal fish hatcheries from the point of diversion for 1,500 feet, or the entire tributary if the tributary is highly significant for protection of downstream water quality.
- Type N waters - all segments of aquatic areas that are not type S or F waters and that are physically connected by an above-ground channel system, stream or wetland to type S or F waters.
- Type O waters - all segments of aquatic areas that are not type S, F or N waters and that are not physically connected by an above-ground channel system, stream or wetland to type S, F or N waters.

For the purposes of this section, an above-ground channel system shall be considered to be present if the 100-year floodplains of both the contributing and receiving waters are connected.

Section 48 - Aquatic areas - buffers and buffer width averaging. (*new*) Buffer and buffer width averaging requirements were moved to this new section from section 50, and were also changed to correspond to the new water types in section 47. Minimum buffers are generally increased, and are now the same throughout the county (buffers specific to the Bear Creek Basin have been removed). Different minimum buffers now partially apply based on whether the property is within or outside the Urban Growth Area, with larger buffers generally outside the UGA.

- Minimum buffers - establishes the following minimum buffers (measured from the ordinary high water mark or the top of the bank if the ordinary high water mark cannot be identified):
 - within the Urban Growth Area:
 - type S and F water - 115-foot buffer;
 - special urban type S or F water (according to department water typing maps) - 165-foot buffer;
 - type N water - 65-foot buffer;
 - type O water - 25-foot buffer.
 - outside the Urban Growth Area:
 - type S and F water - 165-foot buffer;
 - type N water - 65-foot buffer;
 - type O water - 25-foot buffer.
 - in the Bear Creek basin:
 - type S and F water - 165-foot buffer;
 - type N water - 65-foot buffer;
 - type N in regionally significant resource areas - 100-foot buffer;
 - type O water - 25-foot buffer.
 - if the aquatic area buffer includes a steep slope hazard area, the buffer shall be the greater of either the aquatic area buffer or 25 feet beyond the top of the steep slope hazard area.
 - If the county has mapped a severe channel migration hazard area, the buffer shall include the entire severe channel migration hazard area plus the

appropriate aquatic area buffer as measured from the edge of the severe channel migration hazard area.

- Buffer width averaging - adds a provision that the applicant may be allowed to average buffer widths by demonstrating, through a critical area report, that (1) the buffer width is not reduced to less than 75 percent of the standard width at any point, (2) alterations do not encroach waterward into the buffer at the top of steep slopes or into a channel migration zone, nor into the buffer of an associated wetland, (3) the total area of the buffer has not been reduced, (4) the ecological structure and function of the buffer is equivalent or improved, and (5) averaging does not preclude future recovery of ecological structure and function.
- Increases buffer width - the department may adopt administrative rules to increase buffer widths when necessary to protect the wetland from hazardous substances, landslide, erosion or steep slope hazards and adverse impacts from trail, road or utility corridors and groundwater discharge and to protect critical drainage areas, fish and wildlife habitat and groundwater recharge.

Section 49 - Aquatic areas - development standards. (*K.C.C. 21A.360* Language prohibiting hazardous substances in the stream corridor and buffer has been removed from this section; this prohibition is covered in section 6. New requirements for aquatic areas and buffers include:

- Building setback - requiring a 15-foot building setback;
- Impervious surfaces - prohibiting the creation of new impervious and effective impervious surfaces, in certain circumstances;
- Clearing and grading - for any allowed clearing or grading, establishing a grading window (May 1 to October 1), and requiring that soil duff disturbance be minimized and that infiltration capacity of the soil be preserved;
- Hydrologically mature vegetation - keeping the entire aquatic area buffer on each parcel undeveloped, in certain circumstances;
- Windthrow hazards - where feasible, keeping vegetation outside the buffer spatially connected to the vegetation inside the buffer to prevent trees from being blown over by wind;
- New structures - siting new structures in the buffer to avoid future hazard trees or adverse impacts to groundwater movement;
- Hazard trees - not removing any part of a tree from the buffer. The preferred remedy for a hazard tree is topping, or secondly, pushing the tree over toward the water;
- Wetlands - limiting wetland filling in the aquatic area buffer only as part of a permitted enhancement program; and
- Significant trees - protecting significant trees during construction.

Section 50 - Aquatic areas - exemptions. (*new*) Lists alterations in an aquatic area or buffer that are exempt from the provisions of this chapter. These alterations are still subject to any applicable erosion and sedimentation control standards, best management practices, state and county Shoreline Management Act requirements and other provisions. When clearing is necessary to conduct any of these alterations, disturbed areas shall be replanted with appropriate native vegetation. Although a clearing and grading permit may not be required to conduct these alterations, other applicable permits and approvals may be required. It is the responsibility of the landowner or person conducting the alteration to obtain all appropriate permits and approvals. The exemptions are:

- interior improvements to and exterior maintenance of existing structures, as well as routine landscape maintenance and personal gardening in previously disturbed areas;
- maintenance of existing driveways, wells, utility service connections and cemetery plots. This maintenance may not expand the affected area, and hazardous substances, pesticides or fertilizer may not be used;
- minimal clearing and grading, if by hand, for data collection and research purposes such as biological studies and surveying;
- public road maintenance, including maintenance of related structures and stormwater facilities;
- maintenance, repair, and replacement of existing utility lines and installation of new utility lines, subject to specific criteria;
- maintenance, repair and replacement of existing docks and piers on waters with no anadromous fish habitat, subject to specific criteria;
- maintenance and repair of existing septic systems;
- harvesting of plants and plant materials for restoration and enhancement projects;
- maintenance of agricultural drainage ditches that carry salmonids in accordance with administrative rules;
- planting of native vegetation in the buffer using hand labor or light equipment.

Section 51 - Aquatic areas - short-form permit. (*new*) Adds permit that may be obtained to make a number of alterations. While this short-form permit relieves the applicant of the need for a standard clearing and grading permit, other requirements still apply, including erosion and sedimentation control standards, best management practices, state and county Shoreline Management Act requirements and other specific provisions. These alterations include:

- removal of invasive or noxious vegetation and replacement with native vegetation if done, using hand-tools or light equipment;
- habitat restoration projects not associated with a development activity;
- maintenance and repair of existing in-stream structures not qualifying as a habitat restoration project in this section, if "in-water" is not done during dry time of year or if the work is above the water line;
- maintenance, repair and replacement of up to 50 percent of the piles of existing docks and piers on waters with no anadromous fish habitat, subject to specific criteria;
- maintenance, repair, renovation and removal of lawfully established flood protection facilities, subject to specific criteria;
- maintenance and repair of lawfully established existing permanent bank stabilization and erosion hazard protection measures, subject to specific criteria;

Section 52 - Aquatic areas - allowed alterations. (*K.C.C. 21A.370*)

- alterations allowed within an aquatic area buffer that includes a severe channel migration hazard area under K.C.C. 21A.xx [Section 35];
- emergency repairs;
- maintenance or repair of existing in-stream structures requiring "in-water" work, if done in least impacting way and in conformance with applicable best management practices. This includes temporary alterations necessary to achieve repair and maintenance of existing in-stream structures;
- installation of temporary in-stream structures if done in least impacting way at least impacting time of year, in conformance with applicable best management practices, and all affected in-stream and buffer features are restored;

- installation of new or replacement of existing in-stream structures in type N and O waters that are not allowed under other sections of K.C.C. chapter 21A.24.
- maintenance, repair or replacement of docks and piers, excluding submerged components on waters with anadromous fish habitat, subject to specific criteria;
- maintenance of private road when conducted in conformance with the Regional Road Maintenance Guidelines' best management practices;
- maintenance or repair of non-county maintained bridges when conducted in conformance with the Regional Road Maintenance Guidelines' best management practices, and by properly educated and trained individuals; and
- maintenance and repair of stormwater management facilities not authorized under K.C.C. 21A.xx [Section ##] if conducted in conformance with the Regional Road Maintenance Guidelines' best management practices;
- maintenance of flood protection facilities by a public agency if done in conformance with Regional Road Maintenance Guidelines, King County Flood Hazard Reduction Plan and King County Guidelines for Bank Stabilization Projects and monitoring is done for three years.

A critical area report, including a minor habitat evaluation, are required for:

- alterations allowed within an aquatic area buffer that includes a severe channel migration hazard area under K.C.C. 21A.xx [Section 37];
- installation of new, or replacement of an existing, in-stream structure in a type S or type F water when such work is included as part of an Endangered Species Act driven habitat project;
- maintenance, repair and replacement of existing piles for docks and piers on waters with anadromous fish habitat, subject to specific criteria;
- maintenance of private roads not conducted consistent with the Regional Road Maintenance Guidelines' best management practices;
- maintenance, repair, or replacement of existing utility lines, or installation of new utility lines, within a road right-of-way or railroad prism, if not in compliance with the Regional Road Maintenance Guidelines' best management practices; if a stream is crossed, specific criteria apply;
- maintenance, repair, or replacement of existing utility lines, or installation of new utility lines, in a utility corridor or right-of-way; if a stream is crossed, specific criteria apply;
- installation of new utility lines outside a road right-of-way, railroad prism, or utility corridor or right-of-way, and which involve a stream crossing, if specific criteria are followed;
- installation of new utility lines outside a road right-of-way, railroad prism, or utility corridor or right-of-way, and not crossing an aquatic area, if minor habitat assessment shows no practical alternative exists;
- installation of a new road bridge or culvert or the expansion of an existing road bridge or culvert necessary to bring it up to current county standards if this is the only practical access route available and certain conditions are met;
- installation or replacement of an open, vegetated stormwater management conveyance system and outfall structure that simulate natural conditions. Where appropriate such systems shall incorporate fish habitat features necessary for feeding, cover and reproduction. Vegetation shall be used to minimize erosion and protect water quality, and bioengineering techniques should be used;

- installation or replacement of a closed, tightlined stormwater management conveyance system and outfall structure if necessary to avoid erosion of slopes. Bioengineering techniques should be used to the maximum extent practicable;
- clearing and grading on lots encumbered with an aquatic area or aquatic area buffer;
- clearing and grading on an existing legal lot that is encumbered by an aquatic area or aquatic area buffer, subject to specific conditions.

Section 53 - Recodifies K.C.C. 21A.24.380 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 13].

Section 54 - Recodifies K.C.C. 21A.24.390 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 16].

Section 55 - Recodifies K.C.C. 21A.24.400 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 17].

Section 56 - Recodifies K.C.C. 21A.24.410 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 18].

Section 57 - Recodifies K.C.C. 21A.24.420 into K.C.C. chapter 21A.xx [New Chapter: Mitigation and Monitoring, Section 19].

Section 58 - Fish and wildlife habitat conservation areas - development standards. (*new*) This new section defines the habitat conditions that will trigger a critical area report for a development proposal or alteration. It also describes the requirements for protecting fish and wildlife habitat conservation areas by retaining them in critical area tracts or conservation easements. The new requirements are:

- urban and rural areas: the conditions listed below will trigger a critical area report for habitat for these species:
 - Bald eagle:
 - nesting site, nesting site buffer or habitat of primary association, as mapped by the Washington State Department of Fish and Wildlife;
 - bald eagles have been observed; or
 - bald eagle habitat of primary association is present or documented;
 - Common loon: contains large lakes with little or no shoreline development;
 - Great blue heron:
 - contains mapped great blue heron colonies; or
 - contains mature deciduous trees with 300 feet of a category I wetland or aquatic area;
 - Marbled murrelet: contains large tracts of old-growth forest;
 - Osprey: contains snags or broken top trees greater than 20 inches in diameter at breast height within 250 feet of a shoreline;
 - Peregrine falcon: contains cliffs;
 - Red-tailed hawk: contains mature forest or old-growth forest adjacent to open habitat;
 - Spotted owl:
 - contains habitat mapped by the Washington State Department of Fish and Wildlife or the United States Forest Service; or
 - there are forested habitats within one hundred feet of the mapped locations.

- outside the urban area: outside the area designated urban in the King County Comprehensive Plan, the conditions listed below will trigger a critical area report for habitat for these species:
 - Northern goshawk: contains large tracts of nature forest or old-growth forest;
 - Pileated woodpecker: contains a snag-rich area associated with an old-growth forest;
 - Purple martin: contains, snags, pilings, or other potential nesting sites near lakes or marine shorelines;
 - Townsend's big eared bat: contains caves, open mine shafts or large wooden structures;
 - Vaux's swift: contains a snag-rich area associated with old-growth forest;
- subdivisions or a short subdivisions: for a subdivision or a short subdivision, the areas that are required to be protected as a fish and wildlife habitat conservation area shall be retained in native vegetation and placed in one or more recorded critical areas tracts under K.C.C. 21A.24.180;
- individual lots: unless already addressed during the subdivision or short subdivision process, fish and wildlife habitat conservation areas on individual lots shall be protected at the time of building permit application. The portion of the lot to be retained as a fish and wildlife habitat conservation area shall be retained in native vegetation and placed in a conservation easement to ensure long-term protection of the critical area. Notice on title is required, in accordance with K.C.C. 21A.24.170.

Section 59 - Fish and wildlife habitat conservation areas - State Environmental Policy Act. (*new*) Requires that SEPA review for development proposals outside the urban area include analysis of the impacts on the species and habitats that comprehensive plan policies direct should be protected in the rural area. This review shall, at a minimum, focus on the following species when the following conditions are present:

- Band-tailed pigeon: contains mature forest or old-growth forest, especially those associated with mineral springs;
- Blue grouse; contains open coniferous forested habitats in the foothills that are associated with springs, streams, and meadows;
- Columbia black-tailed deer: contains populations mapped by the Washington state Department of Fish and Wildlife or other high concentration areas otherwise observed or documented;
- Elk: contains calving areas and critical winter range as mapped by Washington state Department of Fish and Wildlife or other high concentration areas otherwise observed or documented;
- Harlequin duck: contains fat flowing , forested mountain streams;
- Mink: contains riparian and wetland habitats;
- Western bluebird: contains clearings, fields and pastures with scattered trees and snags; and
- Western toad: contains wetlands and small ponds or lakes;

If the threshold determination is that the development proposal or alteration will have a significant adverse environmental impact on habitat for the above species, then the fish and wildlife habitat conservation areas shall be protected by retaining them in critical area tracts or conservation easements.

Section 60 - Fish and wildlife habitat conservation areas - alterations. (*new*) If the fish and wildlife habitat conservation area includes more than one critical area or critical area buffer,

the most restrictive regulations shall apply. Except as otherwise provided for wildlife habitat networks, the following requirements apply to proposed alteration to a fish and wildlife habitat conservation area that does not include another critical area or critical area buffer:

- a critical area report and mitigation plan are required;
- no introduction of plants or wildlife that are not indigenous to King County, unless authorized by a state or federal permit or approval;
- utilities are allowed if no practical alternative exists, the corridor meets requirements of administrative rules, and any sewer utility corridor complies with K.C.C. 21A.24.330;
- joint use of an approved sewer utility corridor by other utilities is permitted;
- surface water discharge from a flow control or water quality treatment facility, sediment pond or other surface water management activity or facility if in compliance with the Surface Water Design Manual;
- except as provided in the next subsection (regarding crossings), a public and private trail is permitted only upon adoption of administrative rules addressing allowable surface materials and trail width;
- A crossing may be allowed and may encroach on the otherwise required buffer if the crossing meets criteria to minimize impacts (such as by using a bridge);
- fish and wildlife habitat conservation area enhancement not associated with any other development proposal is permitted if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist;
- a minor fish and wildlife habitat conservation area restoration project for fish and wildlife habitat enhancement if supervised by a biologist, sponsored by public agency, and following certain criteria for project elements such as methods of work and time of year;
- subject to a clearing and grading permit, cutting of up to one cord of firewood in any year in fish and wildlife habitat conservation areas of five acres or larger. Removal of brush may also be permitted for the purpose of enhancing tree growth; and
- reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was legally established only if no additional impervious surface is created and the structure is not expanded closer to the priority habitat.

Section 61 - Fish and wildlife habitat conservation areas - review of proposed development or alteration. (*new*) Requires the department to review development proposals or alterations for compliance with section 59. The review will focus on the following:

- Similar land uses should be aggregated to minimize fragmenting of native vegetation and especially forest cover;
- Development should be located where it will avoid areas that are or could be connections between patches;
- If a development proposal does not minimize fragmentation, the amount of allowable disturbed area shall be reduced in proportion to the distance from surrounding development;
- If aggregating land uses creates a conflict with the protection of a priority area, the following vegetative cover types shall be given the following priority (taking into account the size and connectivity of the patch): old or mature forest; conifer forest; mixed forest; deciduous forest; scrub/shrub and meadows; grasslands; and cleared areas.

Any area on the lot on which development is not allowed and that is not designated as a critical area under another provision of this chapter, shall be protected by a fish and wildlife habitat protection easement. The easement shall be shown on all site plans and property maps

and shall be included in the notice on title. The following minimum standards apply to the management of the fish and wildlife habitat easement:

- All trees within the area shall be retained, aside from approved timber harvest activities and the removal of dangerous and diseased trees;
- The area may be used for passive recreation, such as unpaved trails or nature viewing areas, that does not involve the creation of any additional cleared areas; and
- The area shall be clearly marked during construction.

Section 62 - K.C.C. 21A.14.260, as amended by this ordinance, is recodified as a new section in K.C.C. 21A.24.

Section 63 - Wildlife habitat networks - applicability. (*K.C.C. 21A.14.260*) Moved with mostly technical changes to use terminology consistent with this chapter. Clarifies that native vegetation shall be maintained in the set aside areas. Changed to state that set aside areas on individual lots will be “county approved setback areas” instead of “conservation easements.” Notice on title is required for individual lots which contain setback areas.

Section 64 - K.C.C. 21A.14.270, as amended by this ordinance, is recodified as a new section in K.C.C. 21A.24.

Section 65 - Wildlife habitat networks - design standards. (*K.C.C. 21A.14.270*) Moved with only technical changes.

Section 66 - Critical area designation. (*K.C.C. 21A.24.500*) The only changes are minor technical changes.

Section 67 - Conversion of designated critical areas. (*new*) Provides a method for comparing existing wetland and stream classes to proposed wetland categories and aquatic area water types for the purpose of determining the minimum buffer widths for critical areas that were designated before the effective date of this ordinance. Alternatively, the applicant may request that the critical areas be reclassified using the wetland categories and aquatic area water types proposed in this ordinance. This section expires two years after the effective date of this ordinance.

Section 68 - Effect of approval of septic system design based on critical area designation. (*K.C.C. 21A.24.510*) The only changes are minor technical changes.